

CITY OF NEWTON

IN CITY COUNCIL

June 5, 2017

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants the following a SPECIAL PERMIT/SITE PLAN APPROVAL for a one third reduction in the number of required parking stalls by 477 from 1,431 to 954; exceptions to certain dimensional requirements for parking facilities of more than five stalls, and exceptions to certain exceptions to signage requirements; as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

In reference to the requested one-third reduction in the number of required parking stalls by 477, from 1,431 to 954:

1. the site, a single integrated development with three or more uses in a Business 1 (BU1) district, is an appropriate location for a one-third reduction in the sum total of required parking stalls, from 1,431 to 954, as the differing parking demand peaks for different uses on the site allows for the sharing of parking stalls (§5.1.4.C, §7.3.3.C.1);
2. a reduction of up to one-third of the sum total of stalls required for each of the uses will not adversely affect the neighborhood as information pertaining to the parking demand generated by the proposed uses at this site indicates that the number of stalls proposed will be sufficient to meet expected demand without spillover onto neighborhood streets (§5.1.4.C, §7.3.3.C.2);
3. a reduction of one-third of the sum total of stalls required for each of the uses will not create a nuisance or serious hazard to vehicles or pedestrians (§5.1.4.C, §7.3.3.C.3);
4. access to the site over streets is appropriate for the types and numbers of vehicles involved (§5.1.4.C, §7.3.3.C.4)

In reference to the exceptions to parking facility dimensional requirements:

5. literal compliance with the dimensional requirements for parking facilities of more than five stalls is impracticable due to the location of the parking facility on several underground parking levels with numerous support columns, and the sought exceptions are in the public interest as modifications to the existing parking facility layout to comply with such dimensional requirements would result in the loss of stalls that have been in operation for several decades (§5.1.13).

In reference to the requested exceptions to signage requirements:

6. the exceptions to the limitations imposed by Sec. 5.2 sought for the number, size, location and height of signs are in the public interest, given the proposed signs' extent in the context of the scale of the structure and the that the signs are limited to the Boylston Street/Route 9 elevation of the structure and are not placed facing the residential neighborhood on Florence Street (§5.2.13).

PETITION NUMBER: #114-17

PETITIONER: Atrium Wellness Center, LLC.

LOCATION: 300 Boylston Street, on land known as Section 82, Block 2, Lot 1, containing approximately 125,771 square feet of land

OWNER: Atrium Wellness Center, LLC.
ADDRESS OF OWNER: 250 First Avenue, Suite 200
Needham, MA 02494

TO BE USED FOR: Mixed-Use commercial facility consisting of general office, medical office, retail, laboratory, and restaurant (with greater than 50 seats) uses

EXPLANATORY NOTES: To allow a 1/3 reduction in the required stalls from 1,431 to 954 (§5.1.4.A, §5.1.4.C) subject to the conditions herein contained; to waive certain requirements for parking facilities with more than five stalls as necessary (§5.1.13); to waive regulations relative to signs as necessary (§5.2.13).

ZONING: Business 1 district

This special permit supersedes, consolidates, and restates provisions of prior special permits #303-90(3), #466-94, #176-98 and #2-15 to the extent that those provisions remain applicable. Only those conditions and provisions from such prior special permits set forth below that remain applicable, and still in full force and effect, are set forth in this special permit. Any conditions in such prior special permits not set forth in this special permit are null and void.

Approved subject to the following conditions:

Conditions associated with this Special Permit/Site Plan Approval, Order #114-17:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:

- a. A set of drawings entitled "Comprehensive Signage & Parking Summary, Lifetime Center, 300 Boylston Street," prepared by Stantec for the Bullfinch Companies, Inc., dated April 07, 2017:
 - i. Lease Plan- Level 1, dated April 07, 2017;
 - ii. Lease Plan- Level 2 ; dated April 07, 2017
 - iii. Lease Plan- Level 3, dated April 07, 2017;
 - iv. Lease Plan, Level 4, dated April 07, 2017;
 - v. Parking Plan- Parking Level P5 (AP-101), dated April 07, 2017;
 - vi. Parking Plan- Parking Level P4 (AP-102), dated April 07, 2017;
 - vii. Parking Plan- Parking Level P3 (AP-103), dated April 07, 2017;
 - viii. Parking Plan- Parking Level P2 (AP-104), dated April 07, 2017;
 - ix. Parking Plan- Parking Level P1 (AP-105), dated April 07, 2017;
 - x. Parking Plan- Level (AP-106), dated April 07, 2017;
 - xi. Parking Plan- Level 2(AP-107), dated April 07, 2017;
 - xii. Building Signage, dated May 22, 2017;
 - xiii. Building Signage, dated May 22, 2017 (detail);
 - xiv. Building Signage- Boylston Street Rendering, dated May 22, 2017.
2. The petitioner may reduce the number of stalls as shown in the above-referenced plans in order to facilitate the creation of parking stalls that more closely conform to applicable dimensional regulations provided by the Newton Zoning Ordinance, but in no event shall the number of parking stalls provided on the site be fewer than the 954 required by this Order.
3. The final design, color, and illumination of the proposed signs shall be reviewed and approved by the Director of Planning and Development for consistency with the submitted sign package.

Conditions associated with Special Permit/Site Plan Approval, Board Order #2-15:

4. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:
 - a. "Site Plan - Atrium Mall, 300 Boylston Street, Newton MA", prepared by R.E. Cameron & Associates, Inc. and stamped and signed by Larry Grossman, Registered Architect, of Add, Inc., dated December 3, 2014.
 - b. Atrium Center plan set, prepared, stamped, and signed by Larry Grossman, Registered Architect, of Add Inc., dated November 25, 2014, and consisting of the following ten (10) sheets:
 - i. Parcel Map;
 - ii. Building Elevations, dated December 17, 2012 and revised on November 26, 2014.

Plans identified as Conditions #1.b.ii through 1.b.ix in Board Order #2-15 are superseded by plans identified above as Conditions # 1.a.i through 1.a.xi.

2. Laboratories may include the use of devices or technologies to conduct examinations, research and development, and testing of materials or substances, but shall not include the manufacturing of products for sale.
3. Consistent with applicable law and regulations, the petitioner shall control emissions from the site and install proper venting and air handling systems in the building to assure that there are no hazardous or noxious emissions from the site.
4. Laboratory uses within the site shall not exceed 50,000 square feet of the structure's total floor area.
5. All laboratory tenants planning to conduct rDNA research or use rDNA technology shall be limited to National Institute of Health Biosafety Levels 1 and 2, and the development of a laboratory conducting rDNA research or using rDNA technology at a Biosafety Level 3 or above shall be prohibited.
6. Prior to the issuance of any building permit for a laboratory tenant planning to conduct rDNA research or use rDNA technology, the tenant shall obtain a permit under The Revised Ordinances of Newton, §12-21 et seq., as may be amended, from the Commissioner of Health and Human Services with prior approval of the Newton Biosafety Committee.
7. Prior to the issuance of any building permit for a tenant whose operations involve living organisms (hereafter "life sciences industry tenant"), the petitioner shall submit the use clauses in the lease agreement for any such life sciences industry tenant to the Commissioner of Health and Human Services for review to determine compliance with all relevant regulatory requirements, in consultation with a third party consultant, to be selected by the Commissioner of Health and Human Services. Said consultant's fee shall be paid by the petitioner.
8. The Florence Street entrance/exit shall be used only for deliveries, building services, on-site valet services, emergency vehicles and emergency events. The petitioner shall discourage the use of the Florence Street entrance/exit by employees and patrons through the installation of signage within the garage directing vehicles to the Boylston Street/Route 9 entrance/exit. This condition may be reviewed and modified within one year after the commencement of uses permitted hereunder on the site.
9. The petitioner shall make an equitable and proportionate contribution to an area shuttle service which may be developed to run between the site and other major developments along Boylston Street/Route 9 and the Newton Centre Massachusetts Bay Transportation Authority Green Line Station (or an alternative multi-modal hub). The shuttle service shall run through the week and weekend for hours to be determined at a later date.
10. Signage shall conform to City standards. The Urban Design Commission and the Director of Planning and Development will review and approve all by-right signs.
11. The petitioner shall maintain all trash and recycling receptacles or areas in a sanitary condition at all times. The collection/emptying of such receptacles shall only occur on weekdays between 8:00 a.m. and 5:00 p.m.

12. Any additional air conditioning or other mechanical or ventilation systems related to the laboratory or restaurant uses shall be acoustically and visually screened, and shall be reviewed and approved by the Director of Planning and Development prior to installation.
13. Prior to the issuance of any building permit, for a use authorized by this special permit, the petitioner shall submit a Construction Management Plan for review and approval by the Director of Planning and Development and the Commissioner of Inspectional Services. The Construction Management Plan shall discourages construction workers from parking on Florence Street and construction materials being delivered on Florence Street, and shall be consistent and not in conflict with relevant conditions of the Board Order and shall include, but not limited to, the following provisions:
 - a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: exterior construction work shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No exterior construction work is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
 - c. The proposed schedule of the project, including the general phasing of the construction activities.
 - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for delivery vehicles, and location of any security fencing.
 - e. Proposed truck route(s), if any, that minimize travel on local streets.
 - f. Proposed methods for dust control including, but not limited to: minimizing storage of debris on-site by using dumpsters and regularly emptying them and using tarps to cover piles of bulk building materials.
 - g. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Exterior staging activities should be conducted in a manner that will minimize off-site impacts of noise. Exterior noise producing staging activities should be located as far as practical from noise sensitive locations.
 - h. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - i. A plan for rodent control during construction.
14. The storage of snow on the site shall not be allowed, and it is the responsibility of the property owner to remove snow from the site.
15. If in the future the existing building is demolished and the site is redeveloped, all the relief granted by this or previous special permits shall be null and void, and the site shall comply with all current and applicable requirements of the Newton Zoning Ordinance.
16. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Board Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.

- b. Filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms plans submitted with any Building Permit are consistent with plans approved in Condition #1.
 - d. With respect to any building permit to be issued for an rDNA research use on the site, obtained the necessary permit from the Commissioner of Health and Human Services with the approval of the Newton Biosafety Committee for a laboratory tenant planning to conduct rDNA research or use rDNA technology in accordance with Condition #6.
17. No Final Inspection/Occupancy Permit for the uses covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or surveyor certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in digital format by a licensed surveyor.
 - c. Obtained a written statement from the Planning Department that confirms the project has been constructed consistent with the plans approved in Condition #1.

No conditions were incorporated from Board Order #176-98.

Conditions incorporated from Board Order #466-94:

- 18. That any changes to the existing landscaping be reviewed by the Director of Planning and Development.
- 19. The petitioner shall use best efforts to recycle materials used in the operation of all the businesses on the site.

No conditions were incorporated from Board Order #303-90(3).